



March 23, 2001

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## ENGROSSED HOUSE BILL No. 1116

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DIGEST OF HB 1116 (Updated March 21, 2001 3:17 PM - DI 87)

**Citations Affected:** IC 36-8.

**Synopsis:** False alarm charges. Authorizes townships, fire protection territories, fire protection districts, and volunteer fire departments to impose false alarm fees or service charges. Provides that an alarm company is liable for the payment of the false alarm fee or service charge, if the owner of the property that constitutes the owner's residence establishes that the alarm is under a maintenance contract and the alarm company has been notified of the improper installation or maintenance. (The introduced version of this bill was prepared by the local government finance study commission.)

**Effective:** July 1, 2001.

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**Lytle, Adams T, Saunders, Hinkle**

(SENATE SPONSORS — WHEELER, LEWIS)

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January 9, 2001, read first time and referred to Committee on Local Government.  
February 12, 2001, reported — Do Pass.  
February 15, 2001, read second time, ordered engrossed. Engrossed.  
February 19, 2001, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 27, 2001, read first time and referred to Committee on Governmental and Regulatory Affairs.  
March 22, 2001, amended, reported favorably — Do Pass.

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EH 1116—LS 6754/DI 92+



March 23, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED HOUSE BILL No. 1116

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A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 36-8-11-15 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) The board:  
3 (1) has the same powers and duties as a township executive with  
4 respect to fire protection functions, including those duties and  
5 powers prescribed by IC 36-8-13, although all cooperative and  
6 joint actions permitted by that chapter must be undertaken  
7 according to this chapter;  
8 (2) has the same powers and duties as a township executive  
9 relative to contracting with volunteer firefighting companies, as  
10 prescribed by IC 36-8-12 and IC 36-8-13;  
11 (3) shall appoint, fix the compensation, and prescribe the duties  
12 of a fiscal officer, secretarial staff, persons performing special and  
13 temporary services or providing legal counsel, and other  
14 personnel considered necessary for the proper functioning of the  
15 district; however, a person appointed as fiscal officer must be  
16 bonded by good and sufficient sureties in an amount ordered by  
17 the county legislative body to protect the district from financial

EH 1116—LS 6754/DI 92+



- 1 loss;
- 2 (4) shall exercise general supervision of and make regulations for
- 3 the administration of the district's affairs;
- 4 (5) shall prescribe uniform rules pertaining to investigations and
- 5 hearings;
- 6 (6) shall supervise the fiscal affairs and responsibilities of the
- 7 district;
- 8 (7) may delegate to employees of the district the authority to
- 9 perform ministerial acts, except in cases in which final action of
- 10 the board is necessary;
- 11 (8) shall keep accurate and complete records of all departmental
- 12 proceedings, record and file all bonds and contracts, and assume
- 13 responsibility for the custody and preservation of all papers and
- 14 documents of the district;
- 15 (9) shall make an annual report to the executive and the fiscal
- 16 body of the county that at least lists the financial transactions of
- 17 the district and a statement of the progress in accomplishing the
- 18 purposes for which the district has been established;
- 19 (10) shall adopt a seal and certify all official acts;
- 20 (11) may sue and be sued collectively by its legal name ("Board
- 21 of Fire Trustees, \_\_\_\_\_ Fire Protection District"), with
- 22 service of process made on the chairman of the board, but costs
- 23 may not be taxed against the members individually in an action;
- 24 (12) may invoke any legal, equitable, or special remedy for the
- 25 enforcement of this chapter or of proper action of the board taken
- 26 in a court;
- 27 (13) shall prepare and submit to the fiscal body of the county an
- 28 annual budget for operation and maintenance expenses and for the
- 29 retirement of obligations of the district, subject to review and
- 30 approval by the fiscal body;
- 31 (14) may, if advisable, establish one (1) or more advisory
- 32 committees;
- 33 (15) may enter into agreements with and accept money from a
- 34 federal or state agency and enter into agreements with a
- 35 municipality located within or outside the district, whether or not
- 36 the municipality is a part of the district, for a purpose compatible
- 37 with the purposes for which the district exists and with the
- 38 interests of the municipality;
- 39 (16) may accept gifts of money or other property to be used for
- 40 the purposes for which the district is established;
- 41 (17) may levy taxes at a uniform rate on the real and personal
- 42 property within the district;

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1 (18) may issue bonds and tax anticipation warrants;  
 2 (19) may incur other debts and liabilities;  
 3 (20) may purchase or rent property;  
 4 (21) may sell services or property that are produced incident to  
 5 the operations of the district making a fair and reasonable charge  
 6 for it;  
 7 (22) may make contracts or otherwise enter into agreements with  
 8 public or private persons and federal or state agencies for  
 9 construction, maintenance, or operations of or in part of the  
 10 district; ~~and~~  
 11 (23) may receive and disburse money; **and**  
 12 **(24) may impose a false alarm fee or service charge under**  
 13 **IC 36-8-13-4.**

14 (b) Powers granted by this chapter may be used only to accomplish  
 15 the purpose or purposes as stated in the ordinance or resolution  
 16 establishing the district. However, an act of the board necessary and  
 17 proper to accomplish the purposes for which the district is established  
 18 is not invalid because it incidentally accomplishes a purpose other than  
 19 one for which the district is established.

20 SECTION 2. IC 36-8-12-17 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 22 1, 2001]: **Sec. 17. (a) If a political subdivision has not imposed its**  
 23 **own false alarm fee or service charge, a volunteer fire department**  
 24 **that provides service within the jurisdiction may establish a service**  
 25 **charge for responding to false alarms. The volunteer fire**  
 26 **department may collect the false alarm service charge from the**  
 27 **owner of the property if the volunteer fire department dispatches**  
 28 **firefighting apparatus or personnel to a building or premises in the**  
 29 **township in response to:**

30 (1) an alarm caused by improper installation or improper  
 31 maintenance; or

32 (2) a drill or test, if the fire department is not previously  
 33 notified that the alarm is a drill or test.

34 However, if the owner of property that constitutes the owner's  
 35 residence establishes that the alarm is under a maintenance  
 36 contract with an alarm company and that the alarm company has  
 37 been notified of the improper installation or maintenance of the  
 38 alarm, the alarm company is liable for the payment of the fee or  
 39 service charge.

40 (b) Before establishing a false alarm service charge, the  
 41 volunteer fire department must provide notice under IC 5-3-1-4(d)  
 42 in each political subdivision served by the department of the



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1 amount of the false alarm service charge. The notice required by  
2 this subsection must be given:

- 3 (1) before the false alarm service charge is initiated; and  
4 (2) before a change in the amount of the false alarm service  
5 charge.

6 (c) A volunteer fire department may not collect a false alarm  
7 service charge from a property owner or alarm company unless the  
8 department's bill for payment of the service charge:

- 9 (1) is submitted to the property owner in writing within thirty  
10 (30) days after the false alarm; and  
11 (2) includes a copy of a fire incident report in the form  
12 prescribed by the state fire marshal.

13 (d) A volunteer fire department shall use the money collected  
14 from the false alarm service charge imposed under this section:

- 15 (1) for the purchase of equipment, buildings, and property for  
16 fire fighting, fire protection, or other emergency services;  
17 (2) for deposit in the township firefighting fund established  
18 under IC 36-8-13-4; or  
19 (3) to pay principal and interest on a loan under IC 22-14-5.

20 (e) If at least twenty-five percent (25%) of the money received  
21 by a volunteer fire department for providing fire protection or  
22 emergency services is received under one (1) or more contracts  
23 with one (1) or more political subdivisions (as defined in  
24 IC 34-6-2-110), the legislative body of a contracting political  
25 subdivision must approve the false alarm service charge  
26 established under subsection (a) before the service charge is  
27 initiated in that political subdivision.

28 (f) A volunteer fire department that:

- 29 (1) has contracted with a political subdivision to provide fire  
30 protection or emergency services; and  
31 (2) imposes a false alarm service charge under this section;

32 must submit a report to the legislative body of the political  
33 subdivision before April 1 of each year indicating the amount of  
34 false alarm charges collected during the previous calendar year  
35 and how those funds have been expended.

36 (g) The volunteer fire department may maintain a civil action  
37 to recover unpaid false alarm service charges imposed under this  
38 section.

39 SECTION 3. IC 36-8-13-4 IS AMENDED TO READ AS  
40 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Each township  
41 shall annually establish a township firefighting fund which is to be the  
42 exclusive fund used by the township for the payment of costs



1 attributable to providing fire protection or emergency services under  
 2 the methods prescribed in section 3 of this chapter and for no other  
 3 purposes. The money in the fund may be paid out by the township  
 4 executive with the consent of the township legislative body.

5 (b) Each township may levy, for each year, a tax for the township  
 6 firefighting fund. Other than a township providing fire protection or  
 7 emergency services or both to municipalities in the township under  
 8 section 3(b) or 3(c) of this chapter, the tax levy is on all taxable real  
 9 and personal property in the township outside the corporate boundaries  
 10 of municipalities. Subject to the levy limitations contained in  
 11 IC 6-1.1-18.5, the township levy is to be in an amount sufficient to pay  
 12 all costs attributable to fire protection and emergency services that are  
 13 not paid from other revenues available to the fund. The tax rate and  
 14 levy shall be established in accordance with the procedures set forth in  
 15 IC 6-1.1-17.

16 (c) In addition to the tax levy and service charges received under  
 17 IC 36-8-12-13 and IC 36-8-12-16, the executive may accept donations  
 18 to the township for the purpose of firefighting and other emergency  
 19 services and shall place them in the fund, keeping an accurate record  
 20 of the sums received. A person may also donate partial payment of any  
 21 purchase of firefighting or other emergency services equipment made  
 22 by the township.

23 **(d) If a fire department serving a township dispatches fire**  
 24 **apparatus or personnel to a building or premises in the township**  
 25 **in response to:**

26 **(1) an alarm caused by improper installation or improper**  
 27 **maintenance; or**

28 **(2) a drill or test, if the fire department is not previously**  
 29 **notified that the alarm is a drill or test;**

30 **the township may impose a fee or service charge upon the owner**  
 31 **of the property. However, if the owner of property that constitutes**  
 32 **the owner's residence establishes that the alarm is under a**  
 33 **maintenance contract with an alarm company and that the alarm**  
 34 **company has been notified of the improper installation or**  
 35 **maintenance of the alarm, the alarm company is liable for the**  
 36 **payment of the fee or service charge.**

37 **(e) The amount of a fee or service charge imposed under**  
 38 **subsection (d) shall be determined by the township legislative body.**  
 39 **All money received by the township from the fee or service charge**  
 40 **must be deposited in the township's firefighting fund.**

41 SECTION 4. IC 36-8-19-8 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) Upon the



adoption of identical ordinances under section 6 of this chapter, the designated provider unit must establish a fire protection territory fund from which all expenses of operating and maintaining the fire protection services within the territory, including repairs, fees, salaries, depreciation on all depreciable assets, rents, supplies, contingencies, and all other expenses lawfully incurred within the territory shall be paid. The purposes described in this subsection are the sole purposes of the fund and money in the fund may not be used for any other expenses. Except as allowed in subsections (d) and (e) and section 8.5 of this chapter, the provider unit is not authorized to transfer money out of the fund at any time.

(b) The fund consists of the following:

- (1) All receipts from the tax imposed under this section.
- (2) Any money transferred to the fund by the provider unit as authorized under subsection (d).

**(3) Any receipts from a false alarm fee or service charge imposed by the participating units under IC 36-8-13-4.**

(c) The provider unit, with the assistance of each of the other participating units, shall annually budget the necessary money to meet the expenses of operation and maintenance of the fire protection services within the territory, plus a reasonable operating balance, not to exceed twenty percent (20%) of the budgeted expenses. After estimating expenses and receipts of money, the provider unit shall establish the tax levy required to fund the estimated budget. The tax under this section is not subject to the tax levy limitations imposed on civil taxing units under IC 6-1.1-18.5. The amount budgeted under this subsection shall be considered a part of each of the participating unit's budget.

(d) If the amount levied in a particular year is insufficient to cover the costs incurred in providing fire protection services within the territory, the provider unit may transfer from available sources to the fire protection territory fund the money needed to cover those costs. In this case:

- (1) the levy in the following year shall be increased by the amount required to be transferred; and
- (2) the provider unit is entitled to transfer the amount described in subdivision (1) from the fund as reimbursement to the provider unit.

(e) If the amount levied in a particular year exceeds the amount necessary to cover the costs incurred in providing fire protection services within the territory, the levy in the following year shall be reduced by the amount of surplus money that is not transferred to the

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1 equipment replacement fund established under section 8.5 of this  
2 chapter. The amount that may be transferred to the equipment  
3 replacement fund may not exceed five percent (5%) of the levy for that  
4 fund for that year. All participating units must agree to the amount to  
5 be transferred by adoption of identical ordinances specifying the  
6 amount.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1116, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 11, nays 0.

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EH 1116—LS 6754/DI 92+



## COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred House Bill No. 1116, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, between lines 33 and 34, begin a new line blocked left and insert:

**"However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge."**

Page 4, line 1, after "owner" insert "or alarm company".

Page 5, line 25, after "property." insert **"However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge."**

and when so amended that said bill do pass.

(Reference is to HB 1116 as printed February 13, 2001.)

MERRITT, Chairperson

Committee Vote: Yeas 9, Nays 0.

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